

Award No. 4423

Docket No. DC-4455

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

ORDER OF RAILWAY CONDUCTORS

NORTHERN PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of Chef W. A. Maclean for an allowance of two hours on March 7, 1948 and all subsequent dates, and for all other chefs and cooks who reported for train No. 3 or any other train at any point between the hours of 9:00 P. M. and 4:00 A. M. on March 1, 1948, and all subsequent dates, based on Rule 9 of the Chefs' and Cooks' Agreement effective March 1, 1948.

OPINION OF BOARD: Subsequent to the issuance of Award 4379 on this same claim, the parties jointly advised the Board as follows:

"Subsequent to receipt of Award No. 4379 the parties thereto have further considered the claim covered by that Award in conference but have been unable to dispose of that claim.

The undersigned therefore respectfully request the Third Division, National Railroad Adjustment Board to render an interpretation on the application of Rule 9 of the agreement effective March 1, 1948 between the Northern Pacific Railway Company and Order of Railway Conductors on the basis of the data comprising the entire record in Award 4379."

Rule 9 clearly provides that the employees covered thereby "shall be paid at the pro rata rate for time actually worked or held for sleeping accommodations to be made available, with a minimum of two (2) hours."

The payment of pro rata rate with a minimum of two hours is dependent upon "time actually worked or held for sleeping accommodations to be made available". As stated in Award 4379, the parties were in almost total disagreement on the facts necessary for a proper disposition of the dispute in accordance with the above quoted portion of the rule. Those facts can only be reconciled by the parties themselves.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and Employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the claim is disposed of in accordance with the Opinion.

AWARD

Claim disposed of in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 17th day of June, 1949.